

19859 Iannicelli

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-205235

DATE: October 28, 1981

MATTER OF: Mars Signal Light Company

DIGEST:

Protest that bidder is incapable of meeting solicitation delivery schedule is dismissed, since it concerns challenge to agency's affirmative determination of responsibility which is not matter for review by GAO except in circumstances not present here.

Mars Signal Light Company (Mars) protests the award of a contract for emergency warning lights to Tek-Lite Inc. (Tek-Lite) under solicitation No. DLA400-81-B-6404 issued by the the Defense General Supply Center, Richmond, Virginia. Mars contends that Tek-Lite should be found to be nonresponsible for this contract because it has been delinquent on other contracts. In effect, Mars is alleging that Tek-Lite will not be able to deliver the warning lights in accord with the solicitation delivery schedule.

This Office does not review protests of affirmative determinations of responsibility, which is largely a business judgment, unless there is a showing of possible fraud on the part of the procuring officials or the solicitation contains definitive responsibility criteria which have not been applied. Astrocom Electronics, Incorporated, B-203377.3, June 30, 1981, 81-1 CPD 546. Here, there is no allegation that the responsibility determination was the result of fraud or that definitive criteria have not been applied.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

~~019015~~

116728